

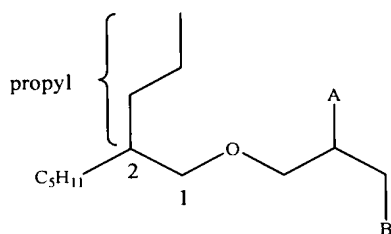
### REQUEST FOR RECONSIDERATION

Claims 1-32 remain active in this application with claims 1-2, 3 and 23 being under active consideration.

The claimed invention is directed to the reaction product of 2-propylheptanol with 2,3-epoxypropanes.

Surfactant compositions, based in-part on their micelle forming ability, have found tremendous use in cleaning compositions. Co-surfactants, which by themselves have insufficient micelle and/or interfacial film forming ability, are nonetheless useful in conjunction with surfactants at forming emulsions allowing for the reduction of surfactant concentration. Known cosurfactants have had associated therewith some drawbacks such that new cosurfactants are sought.

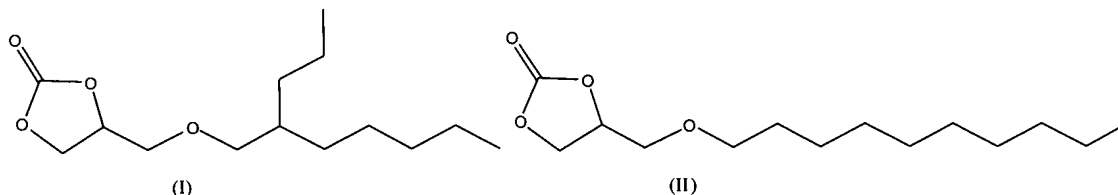
The claimed invention addresses this problem by providing the reaction product of 2-propylheptanol with 2,3-epoxypropanes. Applicants have discovered that such reaction products are useful **cosurfactants** which may be prepared cost-effectively, and are environmentally compatible. The claimed compounds are characterized by a propyl substitution at the 2-position of a heptanol radical.



As evidence of an improved cosurfactant activity for the claimed compound, applicants attach herewith the declaration of Dr. Kati Schmidt, an employee of BASF SE, the assignee of the above-identified application.

Dr. Schmidt's declaration compares the co-surfactant activity for a **branched** compound as claimed **as compared** with a **linear** compound as described in Horibe et al. in otherwise identical washing compositions

The following compounds were tested for washing activity according to SÖFW-Journal, 128, 5-2002, pages 23-29.



The cleansing compositions were tested by washing pre-stained dishes and monitoring the number of dishes cleaned before observing a tearing of a blanket of foam. Composition II, containing a **linear co-surfactant** washed a total number of dishes of eighteen (18), after which the foam blanket was torn. In contrast, composition I, containing a **branched co-surfactant** washed a total number of dishes of nineteen (19), until the foam blanket was torn, a relative quantifiable difference of 5.3%.

Dr. Schmidt, in paragraph 12 indicates that this **data demonstrates higher washing** ability for the claimed branched structure as compared with a linear co-surfactant. The cited references only describe linear compounds, such that a 5.3% increase in washing ability for branched compounds is not suggested by the cited references.

Moreover the examiner's attention is directed to the paragraph bridging pages 4 and 5 of applicants disclosure which identifies the claimed compounds as having advantageous properties which are suitable in an excellent manner in cleaning surfactants in customary detergent and cleaning formulations. Such statement must be treated as objectively true, unless the examiner has reasons, based on sound scientific principles, to doubt the objective truth of applicants' specification.

The burden is on the Patent Office to provide reasons based on scientific principles, to doubt the objective enablement of Applicant's claimed invention. Applicant's disclosure **must be taken as in compliance** with the enabling requirement under 35 USC 112, first paragraph, **unless, there is reason to doubt the objective truth of the statements contained therein.** (*In re Marzocchi*, 169 USPQ 367, 369 (CCPA 1971)).

There is no basis to doubt the objective truth of applicants disclosure such that the claimed demonstration is believed to be commensurate in scope with the claimed invention.

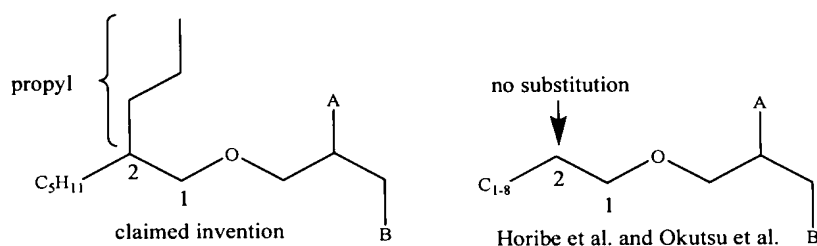
The rejection of claims 1, 2, 3 and 23 under 35 U.S.C. §103(a) over *Horibe et al.*, JP2001/300,286 and *Okutsu et al.*, JP2001/114,719 alone in view of each of *Rubinfeld et al.*, U.S. Patent 3,320,174, *Durbut et al.*, WO97/04059 (*Durbut I*), *Durbut et al.*, WO98/00418 (*Durbut II*) and *Potterhoff-Karl et al.*, U.S. 5,994,290 as applied in the prior office action is respectfully traversed.

None of the cited references of record disclose or suggest the claimed **branched** compounds bearing a 2-propylheptanol residue.

The combined disclosures of *Horibe et al.* and *Okutsu et al.* can be summarized as describing 4-substituted 1,3-dioxolan-2-one compounds in which the methyleneoxy group at the 4-position is substituted with a **linear** C<sub>3-10</sub> alkyl group (C<sub>8</sub> radical *Okutsu et al.*) (C<sub>4-8</sub> or C<sub>10</sub> radicals *Horibe et al.*). All of the disclosed examples in the abstract are 1,3 dioxolane-2-ones with **linear alkyl substitution** or linear ester substitutions. The compounds are described as **surfactants and emulsifiers** for emulsion polymerization (*Horibe*). There is no disclosure or suggestion of a branching propyl substituent at the 2-position of a heptanol residue.

In contrast, the claimed invention is directed to the reaction product of 2-propylheptanol with 2,3-epoxypropanes such that the compounds bears a 2-propylheptanol residue. Such branching compounds have been found to exhibit good co-surfactant activity.

The Schmidt declaration described above demonstrates higher washing activity for the branched compound.



Applicants respectfully submit that the claimed 2-propyl substitution of the heptanol residue is neither disclosed nor rendered obvious by the cited references.

As the cited references fail to disclose the claimed branched compounds, nor an increased washing activity associated therewith, the claimed invention would not have been obvious and accordingly, withdrawal of the rejection under 35 U.S.C. 103(a) is respectfully requested.

Applicants note the examiner's prior denial of applicants' request for priority under 35 U.S.C. §119. The examiner is reminded that

the only times during *ex parte* prosecution that the examiner considers the merits of an applicant's claim of priority is when a reference is found with an effective date between the date of the foreign filing and the date of filing in the United States and when an interference situation is under consideration. (M.P.E.P. §201.15).

As **no intervening reference** has been cited and the examiner has **not indicated that an interference situation is being considered**, the examiner's denial of applicants' request for priority is **improper** and must be withdrawn. Applicants repeat their request for the full benefit of priority to their priority application DE 102 46 140.6 filed on October 10, 2002.

Applicants submit that this application is now in condition for allowance and early notification of such action is earnestly solicited.

Respectfully submitted,

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